REMARKS

Applicants are submitting this amendment together with a Request for Continued Examination (RCE) and RCE fee. Claims 1-26 and 33-44 together with newly added claims 45-50 are pending in the current application. Claims 1-26 and 37 are withdrawn as directed to a non-elected invention. Claim 27-32 are cancelled. Claims 33 and 34 have been amended.

As to the § 102 rejection, applicants respectfully submit that claim 33 is distinguishable over Sesser 4,676,438. Claim 33 has been amended to clarify that each stationery troughs defines at least one wall which is adapted to engage a surface of the ground. The structure of the trough engages the ground, and thus, defines structure apart from the ground.

Applicants respectfully submitted that Sesser '438 does not define any structure for a trough. Sesser discloses furrows dug into the ground by a plow. These furrows are part of the ground itself. They do not define any structure which is positioned at least partially above the surface of the ground. Sesser's furrows further do not have at least one wall which is adapted to engage a surface of the ground. The walls of Sesser's furrow cannot engage a surface of the ground because the furrow walls are formed by the ground itself and thus the ground cannot engage itself. Sesser '438 clearly does not disclose or suggest the features of claim 33 because Sesser lacks a structure for a trough apart from the ground.

Moreover, Sesser '438 teaches away from any structure between the assembly and the ground. Sesser's assembly is used to irrigate the ground directly to limit water loss due to evaporation (Col. 1, lines 45-53). Sesser's teachings and suggestions would discourage any additional structures on the ground for receiving water. Sesser thus teaches away from any structure being positioned at least partially above the ground to receive the water and having at

least one wall which is adapted to engage a surface of the ground. For these reasons, claim 33 is not anticipated or obvious in view of Sesser '438 and should be allowed.

Claims 34-36 and 38-44 depend either directly or indirectly from claim 33 and should also be allowed. In addition, certain dependent claims should be allowed for independent reasons.

In response to the § 103 rejection, claim 34 is also respectfully believed to be patentable over the alleged combination of Sesser '438 and Stoddart 632,795 because the alleged combination does not teach or suggest the claimed trough. Claim 34 has been amended to clarify that each of the plurality of underground drains defines at least one opening therethrough for permitting water flow through the trough and that the drains are adapted for penetrating the ground.

As noted above, Sesser '438 fails to suggest any structure positioned at least partially above the surface of the ground or at least one wall of the structure which is adapted to engage the ground such as the claimed troughs. Therefore, it follows logically that Sesser '438 fails to teach or suggest any trough having any underground drains whatsoever.

Stoddart '795 also fails to teach or suggest the claimed troughs. Stoddart distributor has pegs b which are completely closed at the bottom of the distributor. There is no way for the water to flow through the distributor. The pegs b are closed at their bottom edges and do not provide any outlet for liquid flow. Water must enter and exit through the opening at the top. Stoddart's pegs clearly do not define any openings through the distributor for permitting water flow. Any liquid exits the distributor only by overflowing the distributor with liquid. As a result, the liquids are only distributed from Stoddart's distributor by overflowing the vessel a.

For this reason, it is respectfully believed that claim 34 is distinguishable over the alleged combination of Sesser '438 and Stoddart '795.

Another reason that the alleged combination fails to suggest claim 34 is that Stoddart fails to teach or suggest a drain which is adapted for penetrating the ground. Stoddart's distributor works to deliver liquids onto the filter beds using surface tension. Stoddart's distributor teaches that surface tension allows the water to flow over the sides of the distributor to the pegs b where the surface tension creates fine streams of liquid. Stoddart teachings would be undermined if Stoddart's pegs penetrated the ground or any other structure. Obviously, the ground or other structure would contact the sides of the distributor and break the surface tension. So if Stoddart's pegs were placed in the ground, the contact between the ground and the pegs breaks the surface tension of the water. Water no longer flows to the pegs b to create a water stream. Therefore, claim 34 would not be obvious because Stoddart teaches away from a drain which is adapted to penetrate the ground. This is another reason that claim 34 should be distinguishable and allowable over the alleged combination.

Moreover, Sesser '438 and Stoddart '795 are not properly combinable in the absence of the teaching supplied by applicant's specification. There is absolutely no motivation in either reference to make the alleged combination. Sesser '438 teaches away from any structure apart from the ground for receiving water. Stoddart '795 fails to teach or suggest a trough having the claimed features and is completely unsuitable for use in agricultural irrigation.

One would not be motivated to use Stoddart's distributor in the furrow irrigation system of Sesser. Stoddart and Sesser teach purposes which are opposed to one another. If Stoddart's distributor were placed in Sesser's irrigation system, it would only irrigate the crops if

enough liquid was deposited to overflow the top of the distributor. All liquid remaining in the distributor would fail to irrigate anything and would be subject to evaporation and wind drift. This is not an efficient use of water. The placement of Stoddart's distributor in Sesser's irrigation system therefore causes undue water loss due to evaporation and wind drift for all water left in the distributor. This is contrary to the water conservation purposes touted by Sesser's irrigation system. (Column 1, lines 35-42). For this reason, one skilled in the art would not be motivated to combine these references without applicant's teachings. Claim 34 therefore should be allowed.

Claims 33 and 34 are respectfully believed to be allowable over the cited references for the reasons stated above. In addition, certain dependent claims are believed to be allowable on an independent basis. Claims 41 and 44 are distinguishable over Stoddart's distributor because Stoddart does not disclose a weir or dam mounted within its distributor. The sides or ends of Stoddart's distributor do not define a weir mounted within the trough. The sides and ends of Stoddart's distributor define the outer boundaries of the distributor rather than any structure mounted within the trough. Therefore, claims 41 and 44 are further believed to be separately distinguishable.

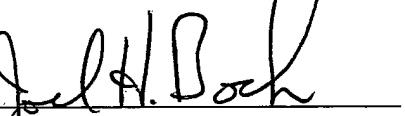
New claims 45-50 are also believed to be allowable over the cited references. Independent claim 45 includes a plurality of water receiving receptacles which are adapted to engage a surface of the ground. Each water receiving receptacle includes at least one wall and defines a fluid passageway which permits water to flow from the water receiving receptacle into the ground. Claim 45 is respectfully submitted as a generic claim which reads on each of the irrigation assemblies disclosed in Figures 1-14.

As to claim 45, Sesser ' 438 fails to teach or suggest a water receiving receptacle apart from the furrows dug into the ground, and consequently, also fails to teach or suggest any receptacle which has at least one wall or which defines a fluid passageway. Thus, claim 45 should also be allowed. Claims 46-50 depend either directly or indirectly from claim 45 and should also be allowed.

Claim 46 is also distinguishable on its own basis over the alleged combination of Sesser '438 and Stoddart ' 795 for the same reasons as discussed above relative to claim 34.

Claims 33-36 and 38-50 are believed to be distinguishable over the cited references. Reconsideration and allowance is respectfully requested.

Respectfully submitted,



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